



## **M E M O R A N D U M**

**City of Austin  
Financial Services Department  
Purchasing Office**

**DATE:** September 20, 2017

**TO:** Memo to File

**FROM:** Liz Lock, Procurement Specialist II

**RE:** MA 5500 NA170000234

This Master Agreement Contract was created and administered by Economic Development. All original documents are located with the department. The Purchasing Office is not responsible for any procurement action for this Master Agreement Contract other the creation of the payment mechanism for accounting purposes.

FT 17 Hispanic Quality of Life  
Vendor: Serie Project Inc  
Vendor ID: COR 7161740  
Award: \$55,000

**CONTRACT BETWEEN THE CITY OF AUSTIN**

**AND FOU: 7470-5500-2352-6825**

**Serie Project Inc**

This Contract is entered into by and between the City of Austin, a home-rule municipal corporation situated in Hays, Travis, and Williamson Counties ("City"), and Serie Project Inc, a non-profit, tax-exempt organization, hereinafter referred to as "Contractor."

WHEREAS, the City has adopted a budget for expenditure of a portion of funds to be received from the General Fund;

WHEREAS, the City wishes to engage the Contractor to carry out a cultural service project;

Now, therefore, the City and Contractor for and in consideration of the covenants and agreements set forth below, the sufficiency of which is hereby acknowledged, agree as follows:

**SECTION 1. GRANT OF AUTHORITY, SERVICES AND DUTIES.**

- 1.1 **Engagement of the Contractor.** Subject to the general supervision and control of the City, and subject to the provisions of the Terms and Conditions contained herein, the Contractor is engaged to provide the services set forth in Section 2, Scope of Work.
- 1.2 **Responsibilities of the Contractor.** The Contractor shall provide all technical and professional expertise, knowledge, management, and other resources required for accomplishing all aspects of the tasks and associated activities identified in the Scope of Work. In the event that the need arises for the Contractor to perform services beyond those stated in the Scope of Work, the Contractor and the City shall negotiate mutually agreeable terms and compensation for completing the additional services.
- 1.3 **Responsibilities of the City.** The City's Contract Manager will be responsible for exercising general oversight of the Contractor's activities in completing the Scope of Work. Specifically, the Contract Manager will represent the City's interests in resolving day-to-day issues that may arise during the term of this Contract, shall participate regularly in conference calls or meetings for status reporting, shall promptly review any written reports submitted by the Contractor, and shall approve all invoices for payment, as appropriate. The City's Contract Manager shall give the Contractor timely feedback on the acceptability of progress and task reports.
- 1.4 **Designation of Key Personnel.** The Contractor's Contract Manager for this engagement shall be Rodolfo Mendez, Phone: (512) 385-2838. The City's Contract Manager for the engagement shall be Jesús Pantel, (512) 974-9315. The City and the Contractor resolve to keep the same key personnel assigned to this engagement throughout its term. In the event that it becomes necessary for the Contractor to replace any key personnel, the replacement will be an individual having equivalent experience and competence in executing projects such as the one described herein. Additionally, the Contractor will promptly notify the Project Manager and obtain approval for the replacement.

**SECTION 2. SCOPE OF WORK.**

- 2.1 **Contractor's Obligations.** The Contractor shall fully and timely provide the services more fully described on Exhibit A – Project Work Plan (Exhibit A) attached hereto. All deliverables described herein shall be in strict accordance with the terms, covenants, and conditions of the Contract and all applicable Federal, State, and local laws, rules, and regulations.

**SECTION 3. TIMELINES, REPORTS, AND DELIVERABLES**

- 3.1 **Timeline.** See Exhibit A.
- 3.2 **Interim Report.** The Contractor will provide a written interim report to the City's Contract Administrator halfway through the term of the contract. This report will summarize all significant activities undertaken during the reporting period, progress made toward completing the ongoing task and project objectives, and any significant problems being encountered.

3.3 **Deliverables.** The Contractor shall provide deliverables, as designated in Exhibit A, with the invoice submission.

#### **SECTION 4. COMPENSATION.**

4.1 **Contract Amount.** In consideration for the services to be performed pursuant to Exhibit A, the Contractor shall be paid an amount not to exceed Fifty Five Thousand (\$55,000) Dollars for all fees and expenses, including travel, over the term of the Contract.

4.1.1 The City shall pay to the Contractor in payments as follows:

- 40% upon initiation of contract
- 25% upon completion of the February 2018 event as described in Exhibit A
- 35% upon completion of the July 2018 event as described in Exhibit A and after City evaluation that all contractual terms have been fully met

4.1.2 These services will be provided within the period between August 17, 2017 through July 30, 2018 as described in Exhibit A.

4.1.3 Payments to be made by the City under this Contract shall be made from current revenues available to the City.

4.2 **Invoices.** Invoices shall contain a non-duplicated invoice number, your City of Austin Vendor ID number, your City of Austin Vendor exact name and address, the purchase order or delivery order number and the master agreement number if applicable, the Department's Name, and the name of the point of contact for the Department. Invoices shall be itemized. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Contractor's invoice. Invoices received without all required information cannot be processed and will be returned to the Contractor. Invoices shall be mailed to the below address:

	City of Austin
Department	Economic Development Department
Attn:	Jesús Pantel
Address:	201 E. 2 <sup>nd</sup> Street
City, State, Zip Code	Austin, TX 78701

Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon request.

#### **4.3 Payment.**

4.3.1 All proper invoices received by the City will be paid within thirty (30) calendar days of the City's receipt of the invoice, monthly report, and deliverables.

4.3.2 If payment is not timely made, (per this paragraph), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.



4.3.3 The final report is due prior or at the same time as the final invoice submission.

4.3.4 The City may withhold or set off the entire payment or part of any payment otherwise due the Contractor to such extent as may be necessary on account of:

4.3.4.1 delivery of defective or non-conforming deliverables by the Contractor;

4.3.4.2 third party claims, which are not covered by the insurance which the Contractor is required to provide, are filed or reasonable evidence indicating probable filing of such claims;

4.3.4.3 failure of the Contractor to pay Subcontractors, or for labor, materials or equipment;

4.3.4.4 damage to the property of the City or the City's agents, employees or contractors, which is not covered by insurance required to be provided by the Contractor;

4.3.4.5 reasonable evidence that the Contractor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;

4.3.4.6 failure of the Contractor to submit proper invoices with all required attachments and supporting documentation; or

4.3.4.7 failure of the Contractor to comply with any material provision of the Contract Documents.

4.3.4.8 Notice is hereby given of Article VIII, Section 1 of the Austin City Charter which prohibits the payment of any money to any person, firm, or corporation who is in arrears to the City for taxes, and of §2-8-3 of the Austin City Code concerning the right of the City to offset indebtedness owed the City.

4.4 **Non-Appropriation.** The awarding or continuation of this Contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate Appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any Appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of non or inadequate appropriation of funds, there will be no penalty nor removal fees charged to the City.

4.5 **Travel Expenses.** Travel expenses incurred by the Contractor are included in the project fees.

4.6 **Final Payment and Close-Out.**

4.6.1 The making and acceptance of final payment will constitute:

4.6.1.1 a waiver of all claims by the City against the Contractor, except claims (1) which have been previously asserted in writing and not yet settled, (2) arising from defective work appearing after final inspection, (3) arising from failure of the Contractor to comply with the Contract or the terms of any warranty specified herein, (4) arising from the Contractor's continuing obligations under the Contract, including but not limited to indemnity and warranty obligations, or (5) arising under the City's right to audit; and

4.6.1.2 a waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

## **SECTION 5. TERM AND TERMINATION.**

- 5.1 **Term of Contract.** This Contract shall become effective on or around August 17, 2017 shall remain in effect until July 30, 2018.
- 5.2 **Right to Assurance.** Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.
- 5.3 **Default.** The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance under Paragraph 24, or (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States.
- 5.4 **Termination For Cause.** In the event of a default by the Contractor, the City shall have the right to terminate the Contract for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the Contractor, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the City's reasonable satisfaction that such default does not, in fact, exist. In addition to any other remedy available under law or in equity, the City shall be entitled to recover all actual damages, costs, losses and expenses, incurred by the City as a result of the Contractor's default, including, without limitation, cost of cover, reasonable attorneys' fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. Additionally, in the event of a default by the Contractor, the City may remove the Contractor from the City's vendor list for three (3) years and any offer submitted by the Contractor may be disqualified for up to three (3) years. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law.
- 5.5 **Termination Without Cause.** The City shall have the right to terminate the Contract, in whole or in part, without cause any time upon thirty (30) calendar days' prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds Appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof.
- 5.6 **Fraud.** Fraudulent statements by the Contractor on any Offer shall be grounds for the termination of the Contract for cause by the City and may result in legal action.

## **SECTION 6. OTHER DELIVERABLES.**

- 6.1 **Insurance.** The following insurance requirement applies. (See Exhibit B – Insurance Certificate.)

### **6.1.1 General Requirements**

- 6.1.1.1 The Contractor shall at a minimum carry insurance in the types and amounts indicated herein for the duration of the Contract and during any warranty period.
- 6.1.1.2 The Contractor shall provide a Certificate of Insurance as verification of coverages required below to the City at the below address prior to contract execution and within fourteen (14) calendar days after written request from the City.
- 6.1.1.3 The Contractor must also forward a Certificate of Insurance to the City whenever a previously identified policy period has expired, or an extension option or holdover period is exercised, as verification of continuing coverage.

- 6.1.1.4** The Contractor shall not commence work until the required insurance is obtained and has been reviewed by City. Approval of insurance by the City shall not relieve or decrease the liability of the Contractor hereunder and shall not be construed to be a limitation of liability on the part of the Contractor.
- 6.1.1.5** The Contractor must submit certificates of insurance to the City for all subcontractors prior to the subcontractors commencing work on the project.
- 6.1.1.6** The Contractor's and all subcontractors' insurance coverage shall be written by companies licensed to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of B+VII or better. The City will accept workers' compensation coverage written by the Texas Workers' Compensation Insurance Fund.
- 6.1.1.7** All endorsements naming the City as additional insured, waivers, and notices of cancellation endorsements as well as the Certificate of Insurance shall contain the solicitation / Contract number, the Buyer's name, and the Contractor's email address, and shall be mailed to the following address:
- Attn: Jesús Pantel  
City of Austin  
Cultural Arts Division  
P. O. Box 1088  
Austin, Texas 78767
- 6.1.1.8** The "other" insurance clause shall not apply to the City where the City is an additional insured shown on any policy. It is intended that policies required in the Contract, covering both the City and the Contractor, shall be considered primary coverage as applicable.
- 6.1.1.9** If insurance policies are not written for amounts specified in Section 0400, Supplemental Purchase Provisions, the Contractor shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.
- 6.1.1.10** The City shall be entitled, upon request, at an agreed upon location, and without expense, to review certified copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.
- 6.1.1.11** The City reserves the right to review the insurance requirements set forth during the effective period of the Contract and to make reasonable adjustments to insurance coverage, limits, and exclusions when deemed necessary and prudent by the City based upon changes in statutory law, court decisions, the claims history of the industry or financial condition of the insurance company as well as the Contractor.
- 6.1.1.12** The Contractor shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of the Contract or as required in the Contract.
- 6.1.1.13** The Contractor shall be responsible for premiums, deductibles and self-insured retentions, if any, stated in policies. All deductibles or self-insured retentions shall be disclosed on the Certificate of Insurance.

6.1.1.14 The Contractor shall endeavor to provide the City thirty (30) calendar days written notice of erosion of the aggregate limits below occurrence limits for all applicable coverages indicated within the Contract.

6.1.2 **Specific Coverage Requirements.** The Contractor shall at a minimum carry insurance in the types and amounts indicated in Exhibit B for the duration of the Contract, including extension options and hold over periods, and during any warranty period. These insurance coverages are required minimums and are not intended to limit the responsibility or liability of the Contractor.

## 6.2 **Equal Opportunity.**

6.2.1 **Equal Employment Opportunity.** No Contractor or Contractor's agent, shall engage in any discriminatory employment practice as defined in chapter 5-4 of the City Code. No Bid submitted to the City shall be considered, nor any Purchase Order issued, or any Contract awarded by the City unless the Contractor has executed and filed with the City Purchasing Office a current Non-Discrimination Certification.

6.2.2 **Americans With Disabilities Act (ADA) Compliance.** Contractor shall not engage in any discriminatory employment practice against individuals with disabilities as defined in the ADA.

6.3 **Publications.** All published material and written reports submitted under the Contract must be originally developed material unless otherwise specifically provided in the Contract. When material not originally developed is included in a report in any form, the source shall be identified.

## SECTION 7. WARRANTIES.

7.1 **Warranty – Services.** The Contractor warrants and represents that all services to be provided the City under the Contract will be fully and timely performed in a good and workmanlike manner in accordance with generally accepted industry standards and practices, the terms, conditions, and covenants of the Contract, and all applicable Federal, State and local laws, rules or regulations.

## SECTION 8. MISCELLANEOUS.

### 8.1 **Right To Audit.**

8.1.1 The Contractor agrees that the representatives of the Office of the City Auditor or other authorized representatives of the City shall have access to, and the right to audit, examine, or reproduce, any and all records of the Contractor related to the performance under this Contract. The Contractor shall retain all such records for a period of three (3) years after final payment on this Contract or until all audit and litigation matters that the City has brought to the attention of the Contractor are resolved, whichever is longer. The Contractor agrees to refund to the City any overpayments disclosed by any such audit.

8.1.1 The Contractor shall include this provision in all subcontractor agreements entered into in connection with this Contract.

8.2 **Stop Work Notice.** The City may issue an immediate Stop Work Notice in the event the Contractor is observed performing in a manner that is in violation of Federal, State, or local guidelines, or in a manner that is determined by the City to be unsafe to either life or property. Upon notification, the Contractor will cease all work until notified by the City that the violation or unsafe condition has been corrected. The Contractor shall be liable for all costs incurred by the City as a result of the issuance of such Stop Work Notice.

### 8.3 **Indemnity.**

#### 8.3.1 Definitions:

8.3.1.1 "Indemnified Claims" shall include any and all claims, demands, suits, causes of action, judgments and liability of every character, type or description, including all costs and expenses of litigation, mediation or other alternate dispute resolution mechanism, including attorney and other professional fees for:

8.3.1.1.1 damage to or loss of the property of any person (including, but not limited to the City, the Contractor, their respective agents, officers, employees and subcontractors; the officers, agents, and employees of such subcontractors; and third parties); and/or;

8.3.1.1.2 death, bodily injury, illness, disease, worker's compensation, loss of services, or loss of income or wages to any person (including but not limited to the agents, officers and employees of the City, the Contractor, the Contractor's subcontractors, and third parties),

8.3.1.2 "Fault" shall include the sale of defective or non-conforming deliverables, negligence, willful misconduct, or a breach of any legally imposed strict liability standard.

8.3.2 THE CONTRACTOR SHALL DEFEND (AT THE OPTION OF THE CITY), INDEMNIFY, AND HOLD THE CITY, ITS SUCCESSORS, ASSIGNS, OFFICERS, EMPLOYEES AND ELECTED OFFICIALS HARMLESS FROM AND AGAINST ALL INDEMNIFIED CLAIMS ARISING OUT OF, INCIDENT TO, CONCERNING OR RESULTING FROM THE FAULT OF THE CONTRACTOR, OR THE CONTRACTOR'S AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THE CONTRACTOR'S OBLIGATIONS UNDER THE CONTRACT. NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF THE CITY OR THE CONTRACTOR (INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM.

8.4 **Claims.** If any claim, demand, suit, or other action is asserted against the Contractor which arises under or concerns the Contract, or which could have a material adverse affect on the Contractor's ability to perform thereunder, the Contractor shall give written notice thereof to the City within ten (10) calendar days after receipt of notice by the Contractor. Such notice to the City shall state the date of notification of any such claim, demand, suit, or other action; the names and addresses of the claimant(s); the basis thereof; and the name of each person against whom such claim is being asserted. Such notice shall be delivered personally or by mail and shall be sent to the City and to the Austin City Attorney. Personal delivery to the City Attorney shall be to City Hall, 301 West 2<sup>nd</sup> Street, 4<sup>th</sup> Floor, Austin, Texas 78701, and mail delivery shall be to P.O. Box 1088, Austin, Texas 78767.

8.5 **Notices.** Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the City and the Contractor shall be addressed as follows:

To the City:

City of Austin, Cultural Arts Division Office

ATTN: Jesús Pantel

P O Box 1088

Austin, TX 78767

To the Contractor:

Serie Project Inc

ATTN: Jill Ramirez

6603 Felix Ave

Austin, TX 78741-2408



- 8.6 **Confidentiality.** In order to provide the deliverables to the City, Contractor may require access to certain of the City's and/or its licensors' confidential information (including inventions, employee information, trade secrets, confidential know-how, confidential business information, and other information which the City or its licensors consider confidential) (collectively, "Confidential Information"). Contractor acknowledges and agrees that the Confidential Information is the valuable property of the City and/or its licensors and any unauthorized use, disclosure, dissemination, or other release of the Confidential Information will substantially injure the City and/or its licensors. The Contractor (including its employees, subcontractors, agents, or representatives) agrees that it will maintain the Confidential Information in strict confidence and shall not disclose, disseminate, copy, divulge, recreate, or otherwise use the Confidential Information without the prior written consent of the City or in a manner not expressly permitted under this Contract, unless the Confidential Information is required to be disclosed by law or an order of any court or other governmental authority with proper jurisdiction, provided the Contractor promptly notifies the City before disclosing such information so as to permit the City reasonable time to seek an appropriate protective order. The Contractor agrees to use protective measures no less stringent than the Contractor uses within its own business to protect its own most valuable information, which protective measures shall under all circumstances be at least reasonable measures to ensure the continued confidentiality of the Confidential Information.
- 8.7 **Advertising.** The Contractor shall not advertise or publish, without the City's prior consent, the fact that the City has entered into the Contract, except to the extent required by law.
- 8.8 **No Contingent Fees.** The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon any agreement or understanding for commission, percentage, brokerage, or contingent fee, excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City shall have the right, in addition to any other remedy available, to cancel the Contract without liability and to deduct from any amounts owed to the Contractor, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.
- 8.9 **Gratuities.** The City may, by written notice to the Contractor, cancel the Contract without liability if it is determined by the City that gratuities were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the City of Austin with a view toward securing the Contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performing of such contract. In the event the Contract is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Contractor in providing such gratuities.
- 8.10 **Prohibition Against Personal Interest in Contracts.** No officer, employee, independent consultant, or elected official of the City who is involved in the development, evaluation, or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the Contract resulting from that solicitation. Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Contract voidable by the City.
- 8.11 **Independent Contractor.** The Contract shall not be construed as creating an employer/employee relationship, a partnership, or a joint venture. The Contractor's services shall be those of an independent contractor. The Contractor agrees and understands that the Contract does not grant any rights or privileges established for employees of the City.
- 8.12 **Assignment-Delegation.** The Contract shall be binding upon and enure to the benefit of the City and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned and no obligation shall be delegated by the Contractor without the prior written consent of the City. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this paragraph. The Contract is not intended to confer rights or benefits on any person, firm

or entity not a party hereto; it being the intention of the parties that there be no third party beneficiaries to the Contract.

8.13 **Waiver.** No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character.

8.14 **Modifications.** The Contract can be modified or amended only by a writing signed by both parties. No pre-printed or similar terms on any Contractor invoice, order, or other document shall have any force or effect to change the terms, covenants, and conditions of the Contract.

8.15 **Interpretation.** The Contract is intended by the parties as a final, complete and exclusive statement of the terms of their agreement. No course of prior dealing between the parties or course of performance or usage of the trade shall be relevant to supplement or explain any term used in the Contract. Although the Contract may have been substantially drafted by one party, it is the intent of the parties that all provisions be construed in a manner to be fair to both parties, reading no provisions more strictly against one party or the other. Whenever a term defined by the Uniform Commercial Code, as enacted by the State of Texas, is used in the Contract, the UCC definition shall control, unless otherwise defined in the Contract.

8.16 **Dispute Resolution.**

8.16.1 If a dispute arises out of or relates to the Contract, or the breach thereof, the parties agree to negotiate prior to prosecuting a suit for damages. However, this section does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either party may make a written request for a meeting between representatives of each party within fourteen (14) calendar days after receipt of the request or such later period as agreed by the parties. Each party shall include, at a minimum, one (1) senior level individual with decision-making authority regarding the dispute. The purpose of this and any subsequent meeting is to attempt in good faith to negotiate a resolution of the dispute. If, within thirty (30) calendar days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will proceed directly to mediation as described below. Negotiation may be waived by a written agreement signed by both parties, in which event the parties may proceed directly to mediation as described below.

8.16.2 If the efforts to resolve the dispute through negotiation fail, or the parties waive the negotiation process, the parties may select, within thirty (30) calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should they choose this option, the City and the Contractor agree to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in the Contract prevents the parties from relying on the skills of a person who is trained in the subject matter of the dispute or a contract interpretation expert. If the parties fail to agree on a mediator within thirty (30) calendar days of initiation of the mediation process, the mediator shall be selected by the Travis County Dispute Resolution Center (DRC). The parties agree to participate in mediation in good faith for up to thirty (30) calendar days from the date of the first mediation session. The City and the Contractor will share the costs of mediation equally.

8.17 **Minority And Women Owned Business Enterprise (MBE/WBE) Procurement Program.**

8.17.1 All City procurements are subject to the City's Minority-Owned and Women-Owned Business Enterprise Procurement Program found at Chapters 2-9A, 2-9B, 2-9C and 2-9D of the City Code. The Program provides Minority-Owned and Women-Owned Business Enterprises (MBEs/WBEs) full opportunity to participate in all City contracts.

8.17.2 The City of Austin has determined that no goals are appropriate for this Contract. **Even though no goals have been established for this Contract, the Contractor is required to comply with the City's MBE/WBE Procurement Program, Chapters 2-9A, 2-9B, 2-9C and 2-9D, of the City Code, as applicable, if areas of subcontracting are identified.**

8.17.3 If any service is needed to perform the Contract and the Contractor does not perform the service with its own workforce or if supplies or materials are required and the Contractor does not have the supplies or materials in its inventory, the Contractor shall contact the Department of Small and Minority Business Resources (DSMBR) at (512) 974-7600 to obtain a list of MBE and WBE firms available to perform the service or provide the supplies or materials. The Contractor must also make a Good Faith Effort to use available MBE and WBE firms. Good Faith Efforts include but are not limited to contacting the listed MBE and WBE firms to solicit their interest in performing on the Contract; using MBE and WBE firms that have shown an interest, meet qualifications, and are competitive in the market; and documenting the results of the contacts.

**8.18 Living Wages and Benefits.**

8.18.1 In order to help assure low employee turnover, quality services, and to reduce costs for health care provided to uninsured citizens, the Austin City Council is committed to ensuring fair compensation for City employees and those persons employed elsewhere in Austin. This commitment has been supported by actions to establish a "living wage" and affordable health care protection. Currently, the minimum wage for City employees is \$13.03 per hour. This minimum wage is required for any Contractor employee directly assigned to this City Contract, unless Published Wage Rates are included in this solicitation. In addition, the City may stipulate higher wage rates in certain contracts in order to assure quality and continuity of service.

8.18.2 The City requires Contractors to provide a signed certification within five (5) calendar days of contract execution certifying that all employees directly assigned to this City Contract will be paid a minimum living wage equal to or greater than \$13.03 per hour (see Exhibit C). The certification shall include a list of all employees directly assigned to providing services under the resultant contract including their name and job title. The list shall be updated and provided to the City as necessary throughout the term of the Contract.

8.18.3 The Contractor shall maintain throughout the term of the resultant contract basic employment and wage information for each employee as required by the Fair Labor Standards Act (FLSA). Basic employment records shall at a minimum include:

8.18.3.1 employee's full name, as used for social security purposes, and on the same record, the employee's identifying symbol or number if such is used in place of name on any time, work, or payroll records;

8.18.3.2 time and date of week when employee's workweek begins;

8.18.3.3 hours worked each day and total hours worked each workweek;

8.18.3.4 basis on which employee's wages are paid;

8.18.3.5 regular hourly pay rate;

8.18.3.6 total daily or weekly straight-time earnings;

8.18.3.7 total overtime earnings for the workweek;

8.18.3.8 all additions to or deductions from the employee's wages;

8.18.3.9 total wages paid each pay period; and

8.18.3.10 date of payment and the pay period covered by the payment.

8.18.4 The Contractor shall provide with the first invoice and as requested by the Department's Contract Manager, individual Employee Certifications for all employees directly assigned to the contract containing (see Exhibit C):

8.18.4.1 the employee's name and job title;

8.18.4.2 a statement certifying that the employee is paid at a rate equal to or greater than the Living Wage of \$13.03 per hour;

8.18.4.3 a statement certifying that the employee is offered a health care plan with optional family coverage.

8.18.5 The employee certifications shall be signed by each employee directly assigned to the contract.

8.18.6 Contractor shall submit employee certifications quarterly with the respective invoice to verify that employees are paid the Living Wage throughout the term of the Contract.

8.18.7 The Department's Contract Manager will periodically review the employee data submitted by the Contractor to verify compliance with this Living Wage provision. The City retains the right to review employee records identified above in this paragraph verify compliance with this provision.

8.19 **Jurisdiction And Venue.** The Contract is made under and shall be governed by the laws of the State of Texas, including, when applicable, the Uniform Commercial Code as adopted in Texas, V.T.C.A., Bus. & Comm. Code, Chapter 1, excluding any rule or principle that would refer to and apply the substantive law of another state or jurisdiction. All issues arising from this Contract shall be resolved in the courts of Travis County, Texas and the parties agree to submit to the exclusive personal jurisdiction of such courts. The foregoing, however, shall not be construed or interpreted to limit or restrict the right or ability of the City to seek and secure injunctive relief from any competent authority as contemplated herein.

8.20 **Invalidity.** The invalidity, illegality, or unenforceability of any provision of the Contract shall in no way affect the validity or enforceability of any other portion or provision of the Contract. Any void provision shall be deemed severed from the Contract and the balance of the Contract shall be construed and enforced as if the Contract did not contain the particular portion or provision held to be void. The parties further agree to reform the Contract to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent this entire Contract from being void should a provision which is the essence of the Contract be determined to be void.

8.21 **Holidays.** The following holidays are observed by the City:

<u>Holiday</u>	<u>Date Observed</u>
New Year's Day	January 1
Martin Luther King, Jr.'s Birthday	Third Monday in January



President's Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Friday after Thanksgiving	Friday after Thanksgiving
Christmas Eve	December 24
Christmas Day	December 25

If a Legal Holiday falls on Saturday, it will be observed on the preceding Friday. If a Legal Holiday falls on Sunday, it will be observed on the following Monday.

- 8.22 **Survivability of Obligations.** All provisions of the Contract that impose continuing obligations on the parties, including but not limited to the warranty, indemnity, and confidentiality obligations of the parties, shall survive the expiration or termination of the Contract.
- 8.23 **Non-Suspension or Debarment Certification.** The City of Austin is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or City of Austin Contracts. By accepting a Contract with the City, the Vendor certifies that its firm and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 8.24 **Incorporation of Documents.** Section 0100, Standard Purchase Definitions, is hereby incorporated into this Contract by reference, with the same force and effect as if they were incorporated in full text. The full text versions of this Section are available, on the Internet at the following online address <http://www.austintexas.gov/sites/default/files/files/Finance/Purchasing/standard-purchase-definitions.pdf>

In witness whereof, the parties have caused duly authorized representatives to execute this Agreement on the dates set forth below.

SERIE PROJECT INC

By: Jill Ramirez  
Signature

Name: JILL RAMIREZ  
Printed Name

Title: Executive Director

Date: 9-14-17

CITY OF AUSTIN

By: Meghan Wells  
Signature

Name: Meghan Wells  
Printed Name

Title: CAD Manager

Date: 9-14-17

#### List of Exhibits / and Incorporated Documents

#### EXHIBITS

Exhibit A Project Work Plan

Exhibit B Insurance Certifications  
Exhibit C Equal Employment Non-Discrimination

**Exhibit A**  
**Project Work Plan**



2017-2018 Summary Project Deliverables to  
Make SERIE Project, Inc. cultural contributions to the Eastern Crescent areas in  
Austin through education and exhibits of the print collection at the following  
venues:

**WORKSHOPS/EXHIBITS:**

- |                            |                |
|----------------------------|----------------|
| 1. Allison Elementary      | September 2017 |
| 2. Del Valle Middle School | October 2017   |
| 3. Del Valle High School   | February 2018  |

**EXHIBITS:**

- |  |               |
|--|---------------|
| 1. Southeast Health and Wellness Center      | December 2017 |
| 2. Austin Community College Riverside Campus | May 2018      |
| 3. Coronado Studio                           | July 2018     |



# Serie Project

BUDGET	
Executive Director	\$20,000
Program Director p/t	\$15,000
Teacher p/t	\$2,250
Exhibits	\$6,000
Workshops	\$2,400
Art Supplies	\$1,000
Rent	\$6,000
Utilities	\$2,350
Total	\$55,000

**Exhibit B**  
**Insurance Certifications**

**City of Austin  
Economic Development Department  
Cultural Contracts Division**

To: Serie Project Inc  
Cultural Arts Contractor

From: EDD/Cultural Arts Division Contract Administration  
(Jesús Pantel 512-974-9315)

Item: Insurance Requirements for your  
2017-18 Hispanic Quality of Life Contract

Date: August 18, 2017

The City of Austin Cultural Arts Division, in conjunction with the City of Austin Risk Management Division, has reviewed the exposures related to your contract for the fund years 2017-2018. The lines of insurance that you are required to provide for your contract are shown below. Please refer to the boilerplate insurance requirements in the contract for the specifics for each line of coverage. We recommend you provide a copy of this document and the boilerplate insurance requirements to your insurance agent for review.

**Required Lines of Insurance:**

- General Liability

**Please call Jesús Pantel at 512-974-9315 with any questions.**

You should immediately forward this document to your insurance agent and ask for the following:

1. Prepare a standard (signed) Certificate of Insurance showing the required coverage and required endorsements (30-day Notice of Cancellation, Waiver of Subrogation, and listing the City of Austin as Additional Insured).
2. Email the correct Certificate of Insurance to [jesus.pantel@austintexas.gov](mailto:jesus.pantel@austintexas.gov) as soon as possible. (Your contract will not be processed until this document is received and approved.)

**City of Austin, Texas  
Section 0800  
EQUAL EMPLOYMENT/FAIR HOUSING OFFICE  
NON-DISCRIMINATION CERTIFICATION**

**City of Austin, Texas  
Human Rights Commission**

To: City of Austin, Texas, ("OWNER")

I hereby certify that our firm conforms to the Code of the City of Austin, Section 5-4-2 as reiterated below:

Chapter 5-4. Discrimination in Employment by City Contractors.

**Sec. 4-2 Discriminatory Employment Practices Prohibited.** As an Equal Employment Opportunity (EEO) employer, the Contractor will conduct its personnel activities in accordance with established federal, state and local EEO laws and regulations and agrees:

- (B) (1) Not to engage in any discriminatory employment practice defined in this chapter.
- (2) To take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without discrimination being practiced against them as defined in this chapter. Such affirmative action shall include, but not be limited to: all aspects of employment, including hiring, placement, upgrading, transfer, demotion, recruitment, recruitment advertising; selection for training and apprenticeship, rates of pay or other form of compensation, and layoff or termination.
- (3) To post in conspicuous places, available to employees and applicants for employment, notices to be provided by OWNER setting forth the provisions of this chapter.
- (4) To state in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that all qualified applicants will receive consideration for employment without regard to race, creed, color, religion, national origin, sexual orientation, gender identity, disability, veteran status, sex or age.
- (5) To obtain a written statement from any labor union or labor organization furnishing labor or service to Contractors in which said union or organization has agreed not to engage in any discriminatory employment practices as defined in this chapter and to take affirmative action to implement policies and provisions of this chapter.
- (6) To cooperate fully with OWNER's Human Rights Commission in connection with any investigation or conciliation effort of said Human Rights Commission to ensure that the purpose of the provisions against discriminatory employment practices are being carried out.
- (7) To require compliance with provisions of this chapter by all subcontractors having fifteen or more employees who hold any subcontract providing for the expenditure of \$2,000 or more in connection with any contract with OWNER subject to the terms of this chapter.

For the purposes of this Offer and any resulting Contract, Contractor adopts the provisions of the City's Minimum Standard Nondiscrimination Policy set forth below.

**City of Austin  
Minimum Standard Non-Discrimination in Employment Policy:**

*As an Equal Employment Opportunity (EEO) employer, the Contractor will conduct its personnel activities in accordance with established federal, state and local EEO laws and regulations.*

*The Contractor will not discriminate against any applicant or employee based on race, creed, color, national origin, sex, age, religion, veteran status, gender identity, disability, or sexual orientation. This policy covers all aspects of employment, including hiring, placement, upgrading, transfer, demotion,*



*recruitment, recruitment advertising, selection for training and apprenticeship, rates of pay or other forms of compensation, and layoff or termination.*

*Further, employees who experience discrimination, sexual harassment, or another form of harassment should immediately report it to their supervisor. If this is not a suitable avenue for addressing their complaint, employees are advised to contact another member of management or their human resources representative. No employee shall be discriminated against, harassed, intimidated, nor suffer any reprisal as a result of reporting a violation of this policy. Furthermore, any employee, supervisor, or manager who becomes aware of any such discrimination or harassment should immediately report it to executive management or the human resources office to ensure that such conduct does not continue.*

Contractor agrees that to the extent of any inconsistency, omission, or conflict with its current non-discrimination employment policy, the Contractor has expressly adopted the provisions of the City's Minimum Non-Discrimination Policy contained in Section 5-4-2 of the City Code and set forth above, as the Contractor's Non-Discrimination Policy or as an amendment to such Policy and such provisions are intended to not only supplement the Contractor's policy, but will also supersede the Contractor's policy to the extent of any conflict.

UPON CONTRACT AWARD, THE CONTRACTOR SHALL PROVIDE A COPY TO THE CITY OF THE CONTRACTOR'S NON-DISCRIMINATION POLICY ON COMPANY LETTERHEAD, WHICH CONFORMS IN FORM, SCOPE, AND CONTENT TO THE CITY'S MINIMUM NON-DISCRIMINATION POLICY, AS SET FORTH HEREIN, OR THIS NON-DISCRIMINATION POLICY, WHICH HAS BEEN ADOPTED BY THE CONTRACTOR FOR ALL PURPOSES (THE FORM OF WHICH HAS BEEN APPROVED BY THE CITY'S EQUAL EMPLOYMENT/FAIR HOUSING OFFICE), WILL BE CONSIDERED THE CONTRACTOR'S NON-DISCRIMINATION POLICY WITHOUT THE REQUIREMENT OF A SEPARATE SUBMITTAL.

**Sanctions:**

Our firm understands that non-compliance with Chapter 5-4 may result in sanctions, including termination of the contract and suspension or debarment from participation in future City contracts until deemed compliant with the requirements of Chapter 5-4.

**Term:**

The Contractor agrees that this Section 0800 Non-Discrimination Certificate or the Contractor's separate conforming policy, which the Contractor has executed and filed with the Owner, will remain in force and effect for one year from the date of filing. The Contractor further agrees that, in consideration of the receipt of continued Contract payments, the Contractor's Non-Discrimination Policy will automatically renew from year-to-year for the term of the underlying Contract.

Jill Romney, ED  
SERIE Project, Inc.

8-17-17



## MEMORANDUM

**TO:** Mayor and Council  
African American Resource Advisory Commission Members  
Asian American Quality of Life Advisory Commission Members  
Hispanic/ Latino Quality of Life Resource Advisory Commission Members

**FROM:** Rey Arellano, Assistant City Manager  
Mark Washington, Assistant City Manager  
Ray Baray, Chief of Staff

**DATE:** October 5, 2016

**SUBJECT:** Quality of Life Budget Requests

The purpose of this memorandum is to provide an update on the budget requests that were recently approved in the FY17 budget process for the three Quality of Life Commissions.

Though funding has been approved, there are certain steps that must be completed before a contract and notice to proceed is issued. The non-profit agencies that have been recommended will be contacted by the various Department staff to discuss specifics about the contracting process. Staff will work with the management of the agency to ensure contracts are put in place that meet the required standards of performance measures that provide a public benefit for the City of Austin. Per City Policy, if a contract is less than or equal to \$58,000, it can be administratively approved by the City Manager. If the contract is above the City Manager's approval authority, staff will bring the contract to Council for approval and will work through the appropriate process as quickly as possible.

Staff will work with agencies to ensure they meet all requirements for contracting with the City of Austin. If the agency is unable to contract with the City, the respective Department and the Quality of Life Commission will work together in identifying an alternative agency to recommend to Council for approval.

Attached is a document providing information specific to each Commission to include the following:

- The approved organization/function receiving the funding
- The funding amount
- The Department in which the funding has been allocated
- A single point of contact (SPOC) to contact for additional information

**Attachments:**

Departments Quality of Life Budget Implementation Table  
Quality of Life Advisory Commission Budget Priorities  
Asian American Quality of Life FY17 Budget Recommendations Memo

**cc:** Elaine Hart, Interim City Manager  
Assistant City Managers  
Kevin Johns, Director, Economic Development  
Shannon Jones, Director Health and Human Services  
Pedro Valdez, Community Court Administrator  
Douglas Matthews, Director, Public Information Office  
Sara Hensley, Director Parks and Recreation  
Sylvia Holt-Rabb, Assistant Director, Economic Development  
Marion Sanchez, Community Engagement Consultant, Corporate PIO  
Sarah Chen, Financial Manager, Human Resources Department

## Departments Responsible for Quality of Life Budget Implementation

Organization/Function	Funding	Department	SPOC	SPOC Office Line
<b>African American Resource Advisory Commission Budget Requests</b>				
KAZI Increase	\$32,970	CPIO	Doug Matthews	512-974-2231
MELJ Justice Center	\$250,000	Municipal Court (Downtown Austin Community Court)	Pete Valdez	512-974-4873
HRD – Youth and Family Service Division for Summer Youth Employment	\$170,000	HRD	Dr. Chiquita Eugene	512-530-3335
Urban Music Festival	\$26,000	PARD	Angela Means	512-974-6717
Youth Harvest Foundation	\$174,363	HHSD	Robert Kingham	512-972-5026
<b>Hispanic/Latino Quality of Life Budget Requests</b>				
Affordable Care Outreach	\$300,000	HHSD	Robert Kingham	512-972-5026
Mamis Ayudan	\$35,000	HHSD	Robert Kingham	512-972-5026
Teen Pregnancy Prevention	\$35,000	HHSD	Robert Kingham	512-972-5026
Con Mi Madre	\$60,414	HHSD	Robert Kingham	512-972-5026
Pipeline Latinitas	\$35,000	EDD	Jesus Pantel	512-974-9315
Ballet East Dance Company	\$20,000	EDD	Jesus Pantel	512-974-9315
Arts HUB (Sam's Corner)	\$55,000	EDD	Jesus Pantel	512-974-9315
Tejano Monument Anniversary Celebration	\$26,000	PARD	Laura Esparza	512-974-4001
Las Comrades	\$11,919	NHCD	Erica Leak	512-974-4001
Montopolis and Del Valle Community Health Assessment	\$75,000	HHSD	Robert Kingham	512-972-5026
<b>Asian American Quality of Life Budget Requests</b>				
CPIO Translation and Interpretation	\$250,000	CPIO	Doug Matthews	512-974-2231
Public Event Leader for the Asian American Resource Center Facility	\$58,000	PARD	Taja Beekley	512-974-1694
Health Equity Service Contract with the Asian Family Support Services of Austin	\$75,000	HHSD	Robert Kingham	512-972-5026
Asian American Resource Center Facility Senior Transportation	\$82,558	PARD	Taja Beekley	512-974-1694
Greater Austin Asian Chamber of Commerce	\$50,000	EDD	Dusty McCormick	512-974-6390
Pilot Community Health Navigator, with Asian American Resource Center Nonprofit	\$137,775	HHSD	Robert Kingham	512-972-5026



**Quality of Life Advisory Commissions Budget Priorities**

African American		Asian American		Latino/Hispanic	
	Amount		Amount		Amount
KAZI - Increase opportunities to broadcast additional Council meetings/forums important to the community	\$ 32,970	CPIO Translation and Language Interpretation	\$ 250,000	ACA Outreach and Enrollment services to reduce the 30% uninsured Latino population	\$ 300,000
MEELI Justice Center - Job training and support services for youth who are at risk and adults who have been in the criminal justice system	\$ 250,000	To be allocated - see allocation ON 9/22/16 committee report	\$ 403,333	Mamis Ayudan to address increased adolescent motherhood through bilingual health services	\$ 35,000
Youth Employment to serve 200 youth	\$ 170,000			Teen Pregnancy Prevention Task Force to develop a community based teen prevention strategic plan	\$ 35,000
Urban Music Festival	\$ 26,000			Con Mi Madre group and individual therapy supporting young Latinas	\$ 60,414
Youth Harvest Foundation (total is \$187,000 but to stay within \$700k the total is reduced)	\$ 174,363			Pipeline Latinitas - connecting Latino youth with Austin's Tech Industry	\$ 35,000
				Ballet East Dance Company to expand folklorico program to Martin MS and Metz Rec Center	\$ 20,000
				Arts HUB (Sam's Corner) in Montopolis for learning opportunities in visual art classes	\$ 55,000
				Tejano Monument Anniversary Celebration	\$ 26,000
				Las Comrades building support systems for Seniors on Fixed Systems	\$ 11,919
				Montopolis and Del Valle Community Health Assessment	\$75,000
<b>TOTAL</b>	<b>\$ 653,333</b>	<b>TOTAL</b>	<b>\$ 653,333</b>	<b>TOTAL</b>	<b>\$653,333</b>





## MEMORANDUM

To: Marc Ott  
City Manager

From: Richard Jung, Chair  
Asian American Quality of Life Advisory Commission

Date: September 22, 2016

Subject: Asian American Quality of Life Advisory Commission FY 17 Budget Recommendations

The Asian American Quality of Life Advisory Commission met in a regular meeting on September 20, 2016 and voted on the following recommendations for the FY17 Asian American Quality of Life funding in the amount of \$653,333:

Recommendation	Allocation	Lead Dept.
Translation and Language Interpretation	\$250,000	CPIO
Public Event Leader for the AARC Facility, 1 FTE	\$58,000	PARD
Health Equity Service Contract with the Asian Family Support Services of Austin	\$75,000	HHSD
AARC Facility - Senior Transportation, 0.75 FTE and funding for a van	\$82,558	PARD
Greater Austin Asian Chamber of Commerce	\$50,000	Economic Development
Pilot Community Health Navigator, with AARC Nonprofit	\$137,775	HHSD
<b>TOTAL</b>	<b>\$653,333</b>	

We look forward to working with the City Manager's Office to ensure that all of Austin's residents' critical needs are met through this budget and in future budgets.

cc: Asian American Quality of Life Advisory Commission Members  
Rey Arellano, Assistant City Manager  
Elaine Hart, Chief Financial Officer  
Ed Van Eenoo, Deputy Chief Financial Officer  
Sarah Chen, AAQOL Staff Liaison